

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TYNISE ADKINS,	§
	§
Defendant Below-	§ No. 386, 2010
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0903012751
Plaintiff Below-	§
Appellee.	§

Submitted: July 19, 2010

Decided: September 7, 2010

Before **HOLLAND, BERGER**, and **JACOBS**, Justices.

ORDER

This 7th day of September 2010, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, Tynise Adkins, filed this appeal from the Superior Court's denial of her motion for postconviction relief. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Adkins' opening brief that her appeal is without merit. We agree and affirm.

(2) The record reflects that Adkins was indicted in May 2009 on sixty-one criminal charges, including multiple counts of forgery, theft, and

related crimes. While released on bond, Adkins was arrested in August 2009 and charged with unlawfully obtaining a controlled substance and forgery. In September 2009, she pled guilty to four counts of second degree forgery and two counts of theft by false pretenses. In exchange for her guilty plea, the State dismissed the remaining charges against her under both indictments. The State filed a motion to declare Adkins a habitual offender. After receiving a presentence investigation report, the Superior Court declared Adkins to be a habitual offender and sentenced her to four years at Level V incarceration. Adkins did not file a direct appeal. Instead, she filed a motion for modification of sentence, which was denied. Thereafter, she filed a motion for postconviction relief, which the Superior Court also denied. This appeal followed.

(3) In her opening brief on appeal, Adkins asserts that she was denied the effective assistance of counsel because her trial counsel failed to: (i) advocate in her best interests; (ii) negotiate a plea consistent with a mental illness defense; and (iii) adequately inform her of the true consequences of her guilty plea. To the extent that Adkins raised other issues in the motion she filed in Superior Court, those issues are deemed waived for her failure to brief them in her opening brief on appeal.¹

¹ *Murphy v. State*, 632 A.2d 1150, 1152 (Del. 1993).

(4) To support a claim of ineffective assistance of counsel, a defendant must demonstrate that: (a) counsel's conduct fell below an objective standard of reasonableness; and (b) there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty but would have insisted on going to trial.² A defendant must make concrete allegations of cause and actual prejudice to substantiate a claim of ineffective assistance of counsel or else risk summary dismissal.³

(5) In the guilty plea form and in the plea colloquy, Adkins stated, under oath, that she understood the State was seeking to have her sentenced as a habitual offender and that she faced a possible life sentence due to her lengthy criminal history. She indicated that she had no history of mental illness and was not under the influence of any medications in accepting the State's plea offer. She expressed satisfaction with her counsel's performance and stated that she was pleading guilty because she was, in fact, guilty of the charged offenses.

(6) In the absence of clear and convincing evidence to the contrary, Adkins is bound by these statements.⁴ There is nothing in the record to support Adkins' belated contentions that she suffered from mental illness at

² *Hill v. Lockhart*, 474 U.S. 52, 58 (1985).

³ *Younger v. State*, 580 A.2d 552, 556 (Del. 1980).

⁴ *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).

the time of her crimes. Moreover, the record flatly contradicts her assertion that counsel did not fully her inform her of the potential consequences of her plea. Accordingly, we find no merit to Adkins' claim that her guilty plea was the result of her counsel's ineffective assistance.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice